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Committee on the Rights of the Child
Sixty-eighth session

Summary record of the 1962nd (Chamber B) meeting
Held at the Palais Wilson, Geneva, on Thursday, 22 January 2015, at 10 a.m.

Chairperson: Ms. Wijemanne (Vice-Chairperson)

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Combined second to fourth periodic reports of Iraq (continued) (CRC/C/IRQ/2-4; CRC/C/IRQ/Q/2-4 and Add.1)

Initial report of Iraq on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/IRQ/1; CRC/C/OPAC/IRQ/Q/1 and Add.1)

Initial report of Iraq on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/IRQ/1; CRC/C/OPSC/IRQ/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Iraq took places at the Committee table.*

2. **Mr. Al-Bayati** (Iraq), replying to questions posed at the 1960th meeting, said that his country had acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict because that issue was of particular concern in Iraq. Young people became involved in armed conflicts for a number of reasons. Some were indoctrinated by adults who incited them to violence, including terrorist acts. Others took up arms to defend themselves from armed groups. The United Nations was partly responsible for that state of affairs as it had not exerted sufficient pressure on countries harbouring clerics who preached violence.

3. The Iraqi military and security forces were not allowed to recruit children, and giving weapons to people under the age of 18 was forbidden. The Awakening Councils operating in some governorates were not part of the Iraqi military, although they were supervised by the military. They did not accept child recruits, and the Government had no military training camps for children. Its armed forces did recruit students from police academies and similar establishments on a voluntary basis. The so-called Islamic State in Iraq and the Levant (ISIL), on the other hand, operated training camps for teenagers.

4. **Mr. Al Sayed Noor** (Iraq), replying to questions put at the 1960th meeting, said that the Optional Protocol on the involvement of children in armed conflict had been ratified and incorporated into national legislation. His Government was preparing a code on the protection of children in armed conflict.

5. Regarding the carrying of weapons by children, he said that international law did not forbid self-defence and that in some rural areas it was common to keep weapons at home, particularly now, as a defence against ISIL forces. There were some local groupings in which children, along with other family members, carried weapons as part of tribal traditions, for example.

6. Emphasizing the independence of his country's judiciary, he said that programmes were in place to make judges aware of children's rights and enable them to deal appropriately with cases involving children.

7. **The Chairperson** asked what happened to children who were arrested by the Government after having been recruited for the purposes of armed conflict. Were they rehabilitated?

8. **Ms. Winter** (Coordinator, Country Task Force), recalling that children suspected of terrorism had been imprisoned during the occupation of Iraq by the United States of America, asked whether that practice had been discontinued. She asked whether the law

prohibiting the recruitment of children in camps for military purposes was being implemented and, if so, how. Was there a system for catching recruiters?

9. **Mr. Mezmur** asked whether reports of participation by children in the Awakening Councils were true.

10. **Ms. Winter** asked whether reports of participation by children in the Mahdi army were true.

11. **Mr. Al-Bayati** (Iraq) said that ISIL continued to recruit children, especially in areas under its control. The Awakening Councils had, in the past, recruited children; however, since the United States forces had withdrawn, the Ministry of Defence had increased its oversight of the situation. The Councils, including those in the Kurdistan region, were subject to the authority of the national armed forces and the Ministry of Defence; many of them had ceased their activities once United States funding had stopped. The Peshmerga forces in the Kurdistan region had existed for decades and did not recruit children. There might, nevertheless, be occasional cases of children being imprisoned, for example, for carrying a weapon. Local tribes recruited young people as part of popular efforts to resist threats and attacks by ISIL.

12. **Mr. Al Sayed Noor** (Iraq) said that the children handed over to the Government by United States forces had benefited from due process. They had been transferred to the Ministry of the Interior and sent to children's prisons. Some had been convicted of crimes such as murdering Government officials, the stiffest sentence handed down being 15 years' imprisonment, with later conditional release. Others had been acquitted.

13. Any proof of a child's age at the time of commission of the crime of which the child was suspected was taken into consideration. Failing proof, the child's age was estimated by forensic experts.

14. All camps for displaced persons in Iraq were controlled by the federal Government or by the regional government of the Kurdistan region. In addition, a number of United Nations agencies ran camps in Iraq. His Government had not received any reports of forcible recruitment of children from any of those camps.

15. **Ms. Winter** asked the delegation to comment on reports from Lebanon, the Syrian Arab Republic and Turkey that child-trafficking gangs operated in such camps.

16. **The Chairperson** asked whether relatives of abducted children could have those children registered in a database of kidnapped children. If such children were found, were efforts made to reunite them with their families?

17. **Mr. Al-Bayati** (Iraq) said that many gangs indeed operated in the Syrian Arab Republic, Turkey and elsewhere, and that they abducted not only children but adults, often for ransom. Cases of abduction of children from refugee camps were rare, and the Ministry of Human Rights, which he headed, had no information about such cases, although the Ministry of the Interior might be able to shed light on that issue.

18. **Mr. Al Sayed Noor** (Iraq) said that information about more than 800 cases of children abducted by ISIL since 9 June 2014 had been given to the commission of inquiry set up in Iraq under resolution A/HRC/RES/S-22/1, adopted in September 2014 by the Human Rights Council.

19. **Mr. Al-Jizani** (Iraq) said that article 29 of the Iraqi Constitution prohibited involving children in armed conflict, while the Anti-Terrorism Act of 2011 imposed penalties for participation in such acts. Measures to deter children from participating in armed conflict generally and terrorism in particular were in place. Children who were caught engaging in such activities were usually placed in institutions whose ultimate goal was rehabilitation. The children received medical attention, including visits by

psychologists, and vocational training. In the past three years, more than 2,000 such children had been rehabilitated, jobs had been found for them and attempts had been made to reunite them with their families. Between 2003 and 2014, the number of children detained for participation in terrorist acts had decreased; in 2013, for example, only 123 had been detained and 70 had been convicted and sentenced. That decrease indicated that the Government's deterrent programmes were effective.

20. **Mr. Cardona Llorens** expressed concern about the use of children with disabilities to commit terrorist acts in Iraq. Noting that, according to some reports, some children with disabilities had been told that they would lose their disability if they participated in a terrorist act, he said that readiness to believe such claims could reflect a sense of social marginalization among children with disabilities. He asked the delegation to comment on the Iraqi Government's commitment to combating structural discrimination, including against certain categories of children.

21. **Mr. Kotrane** (Country Task Force) commended the delegation for its high level of expertise and for its contribution to a dialogue that was proving fruitful. Referring to the ratification by the State party of both the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182) and the Optional Protocol on the involvement of children in armed conflict, he said that, as the Optional Protocol provided stronger protection for children than the ILO Convention, the State party should take the additional measures required by the Optional Protocol.

22. In view of the fact that the State party was drafting laws to criminalize not only the recruitment of children for armed conflict but also children's involvement in such activities, he expressed concern that children imprisoned for such acts might be subjected to inhuman and degrading treatment. Furthermore, they might even be imprisoned simply to elicit information from them about relatives accused of belonging to terrorist groups. He asked the delegation to comment on that issue.

23. **Ms. Winter**, noting that the provisions of the Iraqi High Criminal Court Act No. 10 of 2005 established that the conscription or enlistment of children under the age of 15 years into the national armed forces or their use as active participants in hostilities between July 1968 and May 2003 was deemed a war crime, wondered if it would be possible to extend the application of those provisions to the post-2003 period.

24. **Mr. Al-Jizani** (Iraq) said that the number of juvenile arrests had fallen steadily from 136 in 2012 to 72 in 2014. The number of young persons convicted of an offence and sentenced had also dropped, from 120 in 2012 to 61 in 2014. Inspections and unannounced visits to juvenile prisons by officials from the Child Welfare Authority, members of specialized parliamentary committees and representatives of international organizations and civil society organizations had not uncovered any instances of torture or maltreatment of inmates. The purpose of rehabilitation programmes was to ensure that young people released from juvenile prisons would not fall back into the clutches of armed gangs. To that end, they received vocational training in order to help them to find work. After being released, young people over the age of 18 years were monitored by a psychological counsellor; young people under the age of 18 years with no parents or guardians were placed in social institutions. The information gleaned from regular prison visits did not suggest that children whose relatives were suspected of being members of armed gangs had been arrested merely in order to elicit information from them.

25. Children with mental or physical disabilities who were registered with the Ministry of Labour and Social Affairs were covered by programmes designed to protect them from armed gangs. The Ministry's activities in that respect were coordinated with the children's families. Transportation was organized to take those children to and from school. Awareness-raising courses were arranged under the aegis of the Ministry of Labour and

Social Affairs for the families of children with disabilities to warn them of the danger of their offspring falling prey to armed groups. It would appear from ministry data that those programmes were successful.

26. **Mr. Al-Bayati** (Iraq) said that children who lived in poverty were sometimes tempted to join ISIL. That was not, however, true of Yazidi children, none of whom had become terrorists although they, too, lived in poverty. His country ran educational and training programmes for young people to lift them out of poverty and set them on the right track, but action was necessary at the international level to combat the virus of terrorism and to alter the mindset of those who might be attracted to the ideology of ISIL. In Iraq, people who assisted terrorists incurred the same penalties as those who engaged in terrorist acts.

27. **Mr. Cardona Llorens** said that children with mental disabilities who did not attend school and who were not covered by any social welfare programmes were socially marginalized and could easily be exploited by criminals and terrorist groups. For that reason, he wondered whether the Government had studied the possibility of eradicating those sources of vulnerability.

28. **Mr. Kotrane** likewise underscored the need to deal with the root of the problem of terrorism. Since Sunni children were often subjected to discrimination and marginalized, they might become more attracted to terrorism than other groups in society.

29. Moreover, the State party needed an independent mechanism which had nothing to do with the executive branch in order to conduct prison visits and on-the-spot investigations. He urged the Government of the State party to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which required the establishment of a national preventive mechanism.

30. **Mr. Al Sayed Noor** (Iraq) acknowledged that between 2008 and 2010, there had been a few cases in which children with mental disabilities, who had not understood what they were doing, had been used as suicide bombers by terrorist groups. In order to forestall such exploitation, the Government was trying to provide financial assistance to the families of children with disabilities. His country was a party to the Convention on the Rights of Persons with Disabilities; it had enacted a law on persons with disabilities and established an independent body to oversee improvements and monitor government services for persons with disabilities. The Ministry of Human Rights was also responsible for caring for children with disabilities. A comprehensive survey of all schools conducted in 2010 had shown that there were 13,500 pupils with disabilities in the education system, and that they did not receive adequate mobility support. In response to those findings, a number of special education programmes had been introduced, and a number of schools were currently legally bound to take measures to address the mobility problems of children with disabilities.

31. The Ministry of Human Rights was responsible for combating the ill-treatment of children. Since some isolated cases had been identified in which force had been used to extract confessions or testimony from children, measures had been taken to prevent the recurrence of such malpractice. When persons accused of terrorism were being sought by the police there was always a risk that their children might be imprisoned. It was not, however, government policy to do so. The Ministry of Human Rights worked with the Department of Public Prosecutions to punish persons guilty of that offence.

32. His Government worked with the Human Rights Office of the United Nations Assistance Mission for Iraq and the United Nations Children's Fund to implement Security Council resolution 1612 (2005), which urged the parties concerned to take appropriate measures to prevent the recruitment of children in armed conflict.

33. **The Chairperson**, speaking in her capacity as a member of the Country Task Force, wished to know whether a monitoring and reporting mechanism had been set up in order to comply with that resolution and, if so, how it functioned.

34. **Mr. Mezmur** said that children with disabilities who joined armed groups for reasons of self-defence were obviously in need of assistance and protection. He urged the Ministry of Human Rights to conduct a comprehensive study of children in detention. Had the Government considered establishing an interministerial committee to examine the situation of children affected by armed violence?

35. **Mr. Al Sayed Noor** (Iraq) said that the Child Welfare Authority, which brought together officials from all the relevant ministries, had introduced programmes to assess the psychological impact of violence on traumatized children and to identify the appropriate help for them.

36. With reference to the question put by Ms. Winter, he said that the recruitment of children into the armed forces constituted a war crime. Although the Iraqi High Criminal Court Act of 2005 applied only to the period 1968–2003, the children's code that was currently being drafted and other future legislation would be based on a decision handed down by the Court and would provide children with adequate protection against involvement in armed conflict.

37. With regard to the issue of self-defence, he clarified that once armed forces had ended a siege by ISIL, the right of children in the affected area to take up arms in self-defence was no longer relevant.

38. **Mr. Al-Jizani** (Iraq) said that the Ministry of Labour and Social Affairs was in the process of designing a child protection policy which addressed a number of issues, including children who were victims of armed conflicts. The Ministry was currently consulting teachers, civil society organizations and children to obtain their views of the draft policy which, it was hoped, would be adopted in 2015.

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

39. **The Chairperson** invited the members of the delegation to reply to questions put at the 1960th meeting regarding the Optional Protocol on the sale of children, child prostitution and child pornography.

40. **Ms. Al-Nuaimi** (Iraq) said that, although there was virtually no trafficking in children in her country, the Government of Iraq had enacted an anti-trafficking act in 2012. The Iraqi Criminal Code (Act No. 111 of 1969) contained provisions aimed at combating and punishing trafficking in persons. A wide range of acts fell within the ambit of the definition of crimes connected with trafficking in persons. A unit had been set up in the Ministry of the Interior to combat trafficking. Legislation also made provision for the exchange of information, international cooperation, the mounting of awareness campaigns and cooperation with civil society organizations in order to counter trafficking. The penalty for trafficking offences was more severe if the victim was under 18 years of age or if the perpetrator was an official or a civil servant. State agencies were required to provide medical and psychological support and counselling for victims, especially child victims. A specialized court had been established to deal with cases of trafficking in persons. Help was provided to victims seeking to be reunited with their families. Victims and witnesses were given protection; the information they supplied remained confidential and their identity was not divulged. Child victims were covered by rehabilitation programmes run by the Ministry of Labour and Social Affairs, and they were offered work opportunities to facilitate their reintegration into society. Foreigners were given temporary residence and work visas, as well as diplomatic assistance to facilitate their return to their home country.

41. **Mr. Al-Jizani** (Iraq) said that as a precautionary measure, anti-trafficking legislation had widened the notion of exploitation to include the situation where organized crime gangs forced children to beg in the street. A number of executive and procedural measures had been adopted in order to implement the Protocols to the United Nations Convention against Transnational Organized Crime, to which Iraq was a party. A shelter had been opened for victims, where they could obtain mental and physical health care.

42. **Mr. Mulahwaish** (Iraq) said that a commission was currently working on the harmonization of domestic legislation with the international conventions to which Iraq was a party. The Prevention of Trafficking in Persons Act (Act No. 28 of 2012) covered all forms of exploitation. The Ministry of Human Rights had a hotline to receive complaints of trafficking. The aforementioned ministry organized campaigns to publicize the Optional Protocol and the rights of children thereunder. The Optional Protocol had been disseminated to all ministries and government agencies. Police officers were trained to regard children who had been trafficked as victims and not criminals. Basic and advanced training in the Optional Protocol was given to the staff of all ministries.

43. **Mr. Kotrane** said that the Committee was well aware that the State party had adopted the Prevention of Trafficking in Persons Act. However, it had been informed that the sale of children was not fully covered under the Iraqi Criminal Code. The definition of the sale of children had to be specific and could not be open to broad interpretation. Under the Optional Protocol on the sale of children, child prostitution and child pornography, the engagement of a child in forced labour or inducing consent for the adoption of a child must be defined as the sale of a child and criminalized. The Iraqi Criminal Code criminalized the exploitation of children in pornography, but did not do so explicitly.

44. **Mr. Al Sayed Noor** (Iraq) said that the Prevention of Trafficking in Persons Act covered the sale of children and imposed harsher penalties when the victim was a child. While the Act did not explicitly refer to the sale of children, it was understood and agreed that the sale of children was a form of trafficking.

45. **The Chairperson** said that the Committee lacked data on the extent of the problem and asked whether the delegation could provide some figures. The Committee would also welcome information on the trafficking of children to other countries, child prostitution and child pornography. Did the State party's child protection policy include measures to collect data on those issues? Prevention was important, but so was rehabilitation and reintegration.

46. **Mr. Kotrane** said that the Committee had studied the Act and found that there was a certain degree of overlap with the Convention, for example, in cases where a child was trafficked to another country. However, a child could be sold without necessarily being moved: a businessman forcing a child to work in his shop was also engaging in an act of sale. The sale of children must be clearly established and criminalized in a specific law, and custodial penalties, as opposed to mere fines, must be prescribed.

47. **Mr. Al-Bayati** (Iraq) said that those issues would require detailed examination. The Act appeared to have certain shortcomings and might need to be amended.

48. **Mr. Al-Jizani** (Iraq), referring to questions posed by the Chairperson, said that the State party had developed a three-pronged approach to combating the sale of children, which included drawing up legislation, collecting data and strengthening institutions. Under article 11 of the Prevention of Trafficking in Persons Act, the Ministry of Labour and Social Affairs was required to establish shelters for victims of trafficking. The shelters provided social workers and psychologists and worked with all other relevant ministries.

49. **Ms. Oviedo Fierro** said that the State party sometimes appeared to see no way out of the problems that had been identified. There seemed to be a tacit acceptance of certain violations in the light of customs and culture and in the context of the current security

situation. Many children in Iraq were suffering and even dying on a daily basis; the Committee had a duty to uphold the rights of those children. She did not want to walk away from the meeting with a sense of hopelessness, especially given that Iraq was a wealthy country. How much room for manoeuvre did the State party have to take action with regard to female genital mutilation, early marriage and other such harmful practices? The Committee needed to see that the Government was fully committed to protecting children, especially those in the most vulnerable situations.

50. **The Chairperson** said that there were reports of girls being sold into marriage or used as gifts among tribes and asked whether the State party was taking steps to address those issues. Were girls involved prostitution placed in prisons? The Committee would also welcome information on the death penalty, increased maternal mortality rates, access to contraceptives, access to reproductive health services for pregnant girls who were victims of rape, steps taken to combat female genital mutilation, and treatment of lesbians, gays, bisexuals and transgender (LGBT) persons.

51. **Mr. Al-Bayati** (Iraq), in response to Ms. Oviedo Fierro, said that his country was not resigned and would not surrender to negative customs and traditions. However, Iraqi society was extremely complex, and neither the police nor the courts could address certain clan traditions. Disputes were dealt with by the clans themselves.

52. While it was true that his country was wealthy and had great potential, its natural and human resources were being depleted. Moreover, the budget had been drawn up based on the assumption that Iraqi oil would be sold for $100 per barrel when it was currently being sold for $48 per barrel.

53. Addressing issues raised by the Chairperson, he said that isolated cases of female genital mutilation had occurred in the western part of the country and in the Kurdistan region. Officials in the Kurdistan region were following up on the matter, and some of the physicians involved in the procedures had been punished. As to forced marriages and temporary marriages, each denomination of Islam interpreted marriage as it wished. There were certain provisions on temporary marriages under the Ja'fari school of jurisprudence, but the temporary marriages taking place were being held in secret and were not being registered. The clergy could not prohibit such forms of marriage, and the Government could not be held responsible for them.

54. **Mr. Al Sayed Noor** (Iraq) said that even in Islamic law, certain conditions must be met for temporary marriages to be considered legitimate. Turning to reproductive health, he said that the Ministry of Health had drawn up a strategy for 2013–2017 and allocated the necessary resources. Significant progress had already been made, and both maternal and infant mortality rates had gone down. Health-care centres that complied with World Health Organization standards were available in all municipalities, and female genital mutilation had been criminalized. As to the treatment of the LGBT community, he said that in Iraq, private life was not criminalized as long as there was no violation of public morals. The Government did not impose any penalties on homosexuals, and persons who committed acts of violence against homosexuals were prosecuted and punished. Courts had issued orders prohibiting anyone from taking the law into his or her own hands, especially in respect of the LGBT community.

55. **Mr. Al-Jizani** (Iraq), in response to the request for data on the sale of children, said that there were four boys and one girl under the age of 18 years in correctional centres. One man and one woman had been convicted of abduction, and one woman had been convicted of trafficking in organs. Preventive programmes in correctional centres were operative, but their impact was limited.

56. **Mr. Kotrane** said that those figures were not very high. Moreover, it seemed as though the children who had been abducted and exploited were being treated as though they

were criminals and adults. He said that he would like to know how children were treated in such cases. Were the children placed in correctional centres? Did such centres provide them with assistance?

57. **Mr. Al Sayed Noor** (Iraq) said that the Prevention of Trafficking in Persons Act treated such children as victims, not criminals, and placed them in special shelters that offered rehabilitation. They were not deprived of their liberty.

58. **Ms. Winter** asked whether it was legally possible for non-governmental and civil society organizations to run shelters for children who were victims of trafficking or at risk for trafficking.

59. **Mr. Al-Jizani** (Iraq) said that civil society organizations could visit shelters for victims of trafficking and draft reports on them. The shelters worked with civil society organizations and took their views and opinions into account.

60. **Ms. Winter** asked whether such organizations were allowed by law to run their own shelters.

61. **Mr. Al Sayed Noor** (Iraq) said that civil society organizations were not allowed to open shelters, as the Government would not be able to monitor them and was concerned that they would be poorly controlled. Non-governmental organizations could assist families, but could not manage shelters.

62. **Mr. Kotrane** said that there appeared to be a misunderstanding. Mr. Al-Jizani had spoken about prisons and rehabilitation centres for children in conflict with the law, while the Committee was referring to shelters for child victims of trafficking. He hoped that Mr. Al-Jizani had simply made a mistake.

63. **Ms. Winter** said that the Committee was endeavouring to ensure that all children in the State party received protection and assistance from the Government. The Committee was well aware of the challenges facing the State party, but believed that certain issues could, nevertheless, be addressed. For example, the bills under consideration could be adopted, and the implementation of legislation could be improved. Women should be allowed to work and be independent. With regard to the issue of temporary marriages, which was a religious issue, assistance could be provided for in the law. There were already certain regulations in place in relation to the bride's family and the bridegroom, so perhaps there could be regulations in relation to the bride and the bridegroom. The Government should take measures to assist families who would otherwise be forced to sell their children due to poverty. The greater care children received, the less likely they were to join armed groups.

64. **Mr. Kotrane** said he would like to thank the delegation for its responses and its openness. The Committee hoped that the bills under consideration would be adopted and that additional measures would be taken to ensure that the national legislation complied with the human rights instruments to which the State was a party. He expressed the hope that the State party would welcome the Committee's recommendations in a constructive manner.

65. **Mr. Al-Bayati** (Iraq) thanked the Committee and said that he hoped the delegation had responded to its questions and concerns. The State party looked forward to receiving the Committee's recommendations and continuing their work together.

66. **The Chairperson** said that she hoped that their dialogue would lead to a better future for the children of Iraq.

The meeting rose at 12.55 p.m.